IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

MISC. APPLICATION NO. 450 OF 2006

WITH

CRIMINAL WRIT PETITION NO. 1524 OF 2006

JISHA A. VARTAK .. PETITIONER

Vs.

ABHIJEET G. VARTAK & ORS. .. RESPONDENTS

Ms. Archana Khan for petitioner

Mr. Santosh S.K. for R-1

Ms. M.M. Deshmukh, APP for R-3

CORAM: SMT. RANJANA DESAI, J.

DATED:-15/11/2006

P.C.:-

. Heard learned counsel for the parties.

2. For the reasons stated in the application, criminal application is restored to the file.

Criminal application is disposed of.

3. The learned counsel for the petitioner prayed that she may be permitted to amend the writ petition. Pursuant to the permission granted by me, the learned counsel has carried out the amendment.

4. In this petition the petitioner has prayed that Criminal Case C.R. No. 495 of 2004 lodged by Vile Parle Police Station pending on the file of the learned Metropolitan Magistrate's 48th Court at Andheri (E), Mumbai, be quashed.

5. I have heard the learned counsel for the petitioner and the learned counsel for the respondents.

6. The petitioner and the respondents are present in the court. On instructions from them the learned counsel state that the parties have amicably settled their dispute involved in this petition.

7. The marriage between the petitioner and the respondents is dissolved by decree dated 12/6/06

under Section 13-B of the Hindu Marriage Act, 1955, pursuant to the consent terms dated 3/2/06 in Petition No. C-102 of 2005, filed in the Family Court at Bandra, Mumbai by the petitioner herein. Copies of the consent terms and divorce decree are annexed to the instant petition.

8. As per clause 4 of the consent terms the petitioner has to take steps to get proceedings pending in the Metropolitan Magistrate's Court filed under Section 498-A of the Indian Penal Code quashed.

9. The learned counsel for the parties state that in view of the fact that the matter is settled, this court may quash the pending criminal proceeding. In this connection reliance is placed on the judgment of the Supreme Court in B. S. Joshi & Ors. v. State of Haryana & Anr., (2003) 4 SCC 675. In that case also the husband and the wife had settled the matrimonial dispute. The marriage was dissolved by a decree of mutual consent. The Supreme Court quashed the pending prosecution initiated by the wife observing that where chances of an ultimate conviction are bleak and no useful purpose is likely to be served by

continuing the criminal prosecution the court should quash the proceedings. Following observation of the Supreme Court is material.

> "There is no doubt that the object of introducing Chapter XX-A containing Section 498-A in the Indian Penal Code was to prevent torture to a woman by her husband or by relatives of her husband. Section 498-A was added with a view to punishing a husband and his relatives who harass or torture the wife to coerce her or her relatives to satisfy unlawful demands of dowry. The hypertechnical view would be counterproductive and would act against interests of women and against the object for this provision was added. There is every likelihood that non-exercise of inherent ;power to quash the proceedings to meet the ends of justice would prevent women from settling earlier. That is not the object of Chapter XX-A of the Indian Penal Code."

In my opinion, the ratio of the above judgment is clearly applicable to the facts of this case.

10. Since the parties have amicably settled the matter, peace must be maintained. Hence the proceedings of criminal case C.R. No. 495 of 2004 lodged by Vile Parle Police Station pending on the file of the learned Metropolitan Magistrate's 48th Court at Andheri (E), Mumbai, are quashed and set aside. Petition is disposed of in the aforestated terms.

JUDGE.